

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

GUY PRESTON HALE, JR.

Movant

v.

CIVIL ACTION NO. 2:07-0460
(Criminal No. 2:02-00172-1)

UNITED STATES OF AMERICA,

Respondent

MEMORANDUM OPINION AND ORDER

Pending is movant's second motion pursuant to 28 U.S.C. § 2255, filed July 26, 2007, seeking the vacatur, set aside, or correction of his September 9, 2003, sentence of 147 months imprisonment imposed following his guilty plea to (1) possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1) and (2) using and carrying firearms in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c).¹

Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), the court received the proposed findings and recommendation of the United States Magistrate Judge, filed on September 19, 2007.

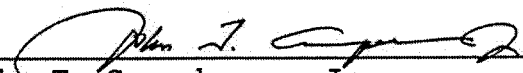
¹On September 23, 2004, movant filed his first section 2255 motion. On June 26, 2006, the court entered its Judgment denying the motion. The movant's subsequent appeal of the June 26, 2006, Judgment was dismissed by the court of appeals on April 3, 2007.

Movant filed objections to the proposed findings and recommendation on September 28, 2007.

As correctly noted by the magistrate judge, the movant has not received authorization from the court of appeals to file a second section 2255 motion. Based upon that default, the court adopts and incorporates herein the proposed findings and recommendation of the magistrate judge. The court further ORDERS that the movant's section 2255 motion be, and it hereby is, denied without prejudice and that this action be, and it hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to the movant, all counsel of record, and the United States Magistrate Judge.

DATED: October 9, 2007


John T. Copenhaver, Jr.
United States District Judge